

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

FILED

DEC 21 2017


CLERK

KODY DEAN BUTTERFIELD,

Plaintiff,

vs.

DARREN YOUNG, WARDEN, South Dakota
State Penitentiary, in his individual and official
capacity; and ART ALLCOCK, Associate
Warden, South Dakota State Penitentiary, in his
individual and official capacity;

Defendants.

4:17-CV-04162-RAL

ORDER

Plaintiff, Kody Dean Butterfield, is an inmate at the South Dakota State Penitentiary in Sioux Falls. On November 30, 2017, Butterfield filed a pro se civil rights lawsuit under to 42 U.S.C. § 1983 and requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. Doc. 1; Doc. 2. Butterfield, however, did not file “a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint” as is required. 28 U.S.C. § 1915. Rather, Butterfield filed a self-prepared prisoner trust account report that lacked the signature of an authorized officer from his institution. Doc. 3.

The court will provide Butterfield an additional thirty days to file “a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint.” 28 U.S.C. § 1915(a)(2). Failure to comply with this order and submit a certified Prisoner Trust Account Report by the deadline set will

result in dismissal without prejudice of this action. *See In re Prison Litig. Reform Act*, 105 F.3d 1131, 1132 (6th Cir. 1997) (“If an inmate not paying the full filing fee fails to provide an affidavit of indigency or trust account statement, the district court shall notify the prisoner of the deficiency and the prisoner shall have thirty (30) days from the date of the deficiency order to correct the error or pay the full filing fee. If the prisoner does not comply with the district court’s directions, the . . . district court must then order the case dismissed for want of prosecution.”); *see also Perry v. Boston Scientific Family*, CIV. No. 11-3464 (DWF/LIB), 2012 WL 694713, at *2 (D. Minn. Feb. 9, 2012), *report and recommendation adopted*, CIV. No. 11-3464 (DWF/LIB), 2012 WL 694700, at *1 (D. Minn. Mar. 1, 2012) (collecting cases holding dismissal appropriate when pro se litigant fails to comply with pauper requirements and court orders).

Accordingly, it is

ORDERED that the Clerk of Court mail this order and a Prisoner Trust Account Report to Butterfield. It is further

ORDERED that Butterfield will complete the Prisoner Trust Account Report according to that document’s directions and return it by January 23, 2018. Failure to file the Prisoner Trust Account Report by January 23, 2018, will result in dismissal without prejudice of the complaint.

DATED December 21st, 2017.

BY THE COURT:



ROBERTO A. LANGE
UNITED STATES DISTRICT JUDGE